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(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R.

To amend the Higher Education Act of 1965 to provide for certain freedom of association protections, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. STEFANIK introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Higher Education Act of 1965 to provide for certain freedom of association protections, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Freedom of Associa-
5 tion in Higher Education Act of 2023”.

6 **SEC. 2. PURPOSES.**

7 (a) PURPOSES.—The purposes of this Act are as fol-
8 lows:

1 (1) Protect any student in a single-sex social
2 organization or any single-sex social organization
3 from any adverse action by an institution of higher
4 education based solely on the membership practice of
5 such organization of limiting membership only to in-
6 dividuals of one sex.

7 (2) Ensure any student in a single-sex social or-
8 ganization or any single-sex social organization is
9 treated without bias in comparison to students at an
10 institution of higher education who do not partici-
11 pate in single-sex social organizations, or other so-
12 cial organizations at an institution of higher edu-
13 cation that are not single-sex.

14 (3) Protect the rights of students to freely asso-
15 ciate with and participate in social organizations, in-
16 cluding single-sex social organizations.

17 **SEC. 3. FREEDOM OF ASSOCIATION PROTECTIONS FOR**
18 **STUDENTS IN SOCIAL ORGANIZATIONS.**

19 Part B of title I of the Higher Education Act of 1965
20 (20 U.S.C. 1011 et seq.) is amended by adding at the end
21 the following:

1 **“SEC. 124. FREEDOM OF ASSOCIATION PROTECTIONS FOR**
2 **STUDENTS IN SOCIAL ORGANIZATIONS.**

3 “(a) UPHOLDING FREEDOM OF ASSOCIATION PRO-
4 TECTIONS.—Any student (or group of students) enrolled
5 in an institution of higher education shall—

6 “(1) be able to form or apply to join any recog-
7 nized or unrecognized social organization, including
8 any single-sex social organization; and

9 “(2) if selected for membership by any social
10 organization, be able to join such social organization
11 and participate in such social organization.

12 “(b) NON-RETALIATION AGAINST STUDENTS OF SIN-
13 GLE-SEX SOCIAL ORGANIZATIONS.—An institution of
14 higher education that receives funds under this Act, in-
15 cluding through an institution’s participation in any pro-
16 gram under title IV, shall not—

17 “(1) take any action to require or coerce a stu-
18 dent or prospective student who is a member or pro-
19 spective member of a single-sex social organization
20 to waive the protections provided under subsection
21 (a), including as a condition of enrolling in the insti-
22 tution;

23 “(2) take any adverse action against a single-
24 sex social organization, or a student who is a mem-
25 ber or a prospective member of a single-sex social
26 organization, based solely on the membership prac-

1 tice of such organization limiting membership only
2 to individuals of one sex; or

3 “(3) impose a recruitment restriction (including
4 a recruitment restriction relating to the schedule for
5 membership recruitment) on a single-sex social orga-
6 nization recognized by the institution, which is not
7 imposed upon other student organizations by the in-
8 stitution, unless the organization (or a council of
9 similar organizations) and the institution have en-
10 tered into a mutually agreed-upon written agreement
11 that allows the institution to impose such restriction.

12 “(c) RULES OF CONSTRUCTION.—Nothing in this
13 section shall—

14 “(1) require an institution of higher education
15 to officially recognize a social organization, including
16 a single-sex social organization;

17 “(2) prohibit an institution of higher education
18 from taking an adverse action against a student who
19 joins a social organization, including a single-sex so-
20 cial organization, for a reason including academic
21 misconduct or nonacademic misconduct, or because
22 the organization’s purpose poses a clear harm to
23 students or employees of the institution, so long as
24 that adverse action is not based solely on the mem-

1 bership practice of the organization of limiting mem-
2 bership only to individuals of one sex;

3 “(3) prevent a social organization from regu-
4 lating its own membership;

5 “(4) inhibit the ability of the faculty of an insti-
6 tution of higher education to express an opinion (ei-
7 ther individually or collectively) about membership in
8 a single-sex social organization, or otherwise inhibit
9 the academic freedom of such faculty to research,
10 write, or publish material about membership in such
11 an organization; or

12 “(5) create enforceable rights against a social
13 organization or against an institution of higher edu-
14 cation due to the decision of such social organization
15 to deny membership to an individual student.

16 “(d) DEFINITIONS.—In this section:

17 “(1) ADVERSE ACTION.—The term ‘adverse ac-
18 tion’ includes the following actions taken by an insti-
19 tution of higher education with respect to a single-
20 sex social organization or a member or prospective
21 member of a single-sex social organization:

22 “(A) Expulsion, suspension, probation,
23 censure, condemnation, formal reprimand, or
24 any other disciplinary action, coercive action, or

1 sanction taken by an institution of higher edu-
2 cation or administrative unit of such institution.

3 “(B) An oral or written warning with re-
4 spect to an action described in subparagraph
5 (A) made by an official of an institution of
6 higher education acting in their official capac-
7 ity.

8 “(C) An action to deny participation in
9 any education program or activity, including the
10 withholding of any rights, privileges, or oppor-
11 tunities afforded other students on campus.

12 “(D) An action to withhold, in whole or in
13 part, any financial assistance (including schol-
14 arships and on-campus employment), or deny-
15 ing the opportunity to apply for financial assist-
16 ance, a scholarship, a graduate fellowship, or
17 on-campus employment.

18 “(E) An action to deny or restrict access
19 to on-campus housing.

20 “(F) An act to deny any certification, en-
21 dorsement, or letter of recommendation that
22 may be required by a student’s current or fu-
23 ture employer, a government agency, a licensing
24 board, an institution of higher education, a

1 scholarship program, or a graduate fellowship
2 to which the student applies or seeks to apply.

3 “(G) An action to deny participation in
4 any sports team, club, or other student organi-
5 zation, including a denial of any leadership po-
6 sition in any sports team, club, or other student
7 organization.

8 “(H) An action to withdraw the institu-
9 tion’s official recognition of such organization.

10 “(I) An action to require any student to
11 certify that such student is not a member of a
12 single-sex social organization or to disclose the
13 student’s membership in a single-sex social or-
14 ganization.

15 “(J) An action to interject an institution’s
16 own criteria into the membership practices of
17 the organization in any manner that conflicts
18 with the rights of such organization under title
19 IX of the Education Amendments of 1972 (20
20 U.S.C. 1681 et seq.) or this section.

21 “(2) SINGLE-SEX SOCIAL ORGANIZATION.—The
22 term ‘single-sex social organization’ means—

23 “(A) a social fraternity or sorority de-
24 scribed in section 501(c) of the Internal Rev-
25 enue Code of 1986 which is exempt from tax-

1 ation under section 501(a) of such Code, or an
2 organization that has been historically single-
3 sex, the active membership of which consists
4 primarily of students or alumni of an institu-
5 tion of higher education; or

6 “(B) a single-sex private social club (in-
7 cluding an independent organization located off-
8 campus) that consists primarily of students or
9 alumni of an institution of higher education.”.